

Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

The Honorable Fred Risser
President, Wisconsin State Senate
Room 220 South, State Capitol
Madison, Wisconsin 53707

September 1, 1999

SEP 03 1999

SEP 03 REC'D

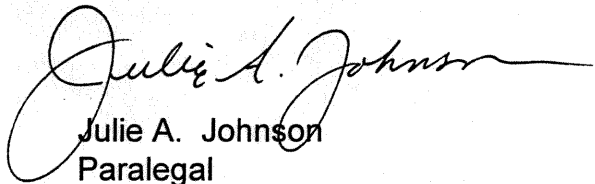
The Honorable Scott Jensen
Speaker, Wisconsin State Assembly
Room 211 West, State Capitol
Madison, Wisconsin 53707

RE: Proposed Administrative Rule **TRANS 102**
Notification of Legislative Standing Committees
CLEARINGHOUSE RULE 98-168

Gentlemen:

Enclosed is a copy of Clearinghouse Rule **98-168**, relating to **operator's licenses and identification cards**. The rule is submitted to you for referral to the appropriate standing committees.

Sincerely,


Julie A. Johnson
Paralegal

JAJ/dim

Enclosure

cc: Gary Poulson
Senator Judy Robson
Representative Glenn Grothman
Roger Cross
Karen Schwartz
John Alley

The Wisconsin Department of Transportation proposes an order to repeal TRANS 102.02(6), 102.14(1)(a) and 102.20(13)(b); renumber TRANS 102.02(6m); amend TRANS 102.01(note), 102.02(9)(intro.), (a) and (b), 102.03(2) and (3), 102.07(2), 102.09(1) and (3), 102.11(1)(a)1., (b)2., (c) and (2), 102.14(1)(b) and (c), 102.15(2)(a), (c)(intro.), (c)7., (3)(intro.), (a), (a)8. and 16., (b)1. and 3., (c) and (note), (4)(a)1., (4)(b)2., (4)(c)(note), (6)(intro.) and (b), 102.16(2) and (5), and 102.20(10)(a), (11), (13)(a) and (c); repeal and recreate TRANS 102.16(3); and create TRANS 102.14(6), 102.15(3)(a)19. and (4)(a)21., 102.16(1)(title), (3m), (4)(title), (6)(title), (7)(title) and (8)(title), relating to Operator's Licenses and Identification Cards

REPORT OF THE DEPARTMENT OF TRANSPORTATION ON THE FINAL RULE DRAFT

This report is submitted to the presiding officers of the Senate and Assembly for referral to the appropriate standing committees. The report consists of the following parts:

Part 1--Analysis prepared by the Department of Transportation.

Part 2--Rule text in final draft form.

Part 3--Recommendations of the Legislative Council.

Part 4--Analysis prepared pursuant to the provisions of s. 227.19(3), Stats.

PART 1
Analysis Prepared by the Wisconsin Department of Transportation

PART 2
TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 343.02, 343.055(5), 343.16(2)(e) and 343.17(6), Stats., the department of transportation hereby proposes an order to amend a rule interpreting ss. 343.055(5), 343.16(2)(e) and 343.17(6), Stats., relating to operator's licenses and identification Cards

SECTION 1. Trans 102.01(note) is amended to read:

Trans 102.01(note) Forms used in administering this rule are ~~MV3392 data card,~~
~~MV3300 examination worksheet~~ ~~MV3269A pocket envelope.~~ ~~MV3394 renewal~~

(b) Department errors ~~on the data card~~ or defects in the license such as an unrecognizable photograph; ~~or~~.

SECTION 5. Trans 102.03(2) and (3) are amended to read:

Trans 102.03(2) A license ~~without photograph~~ may be issued without a photograph or with a prior photograph on file with the department ~~when~~ to any of the following:

(a) A Wisconsin resident who is out of state and is not able to return to Wisconsin for a renewal or duplicate license.

NOTE: See s. 343.14(3), Stats., and sub. (3).

(b) A Wisconsin resident who has seriously held religious convictions that do not allow the resident to be photographed. To qualify for this exemption, the person shall complete, sign and date a statement, on a form provided by the department, certifying that the person objects to being photographed due to a seriously held religious conviction.

(c) A Wisconsin resident who requests a photograph exemption on the grounds that a photograph would not accurately reflect the person's appearance because of the person's temporary disfigurement, and the department finds that an exemption should be granted. In cases where an exemption is granted, the person shall apply for a duplicate operator's license with photograph when the reason for the exemption no longer exists.

NOTE: The fee for a duplicate license may be found in s. 343.21(1)(L), Stats.
Wisconsin law does not permit the department to issue an ID without a photograph.

(3) A person who is issued a license without a photograph under sub. (2)(a) may be excused from the requirement of appearing in person at a motor vehicle service center at the time the duplicate or renewal license is issued. Within 30 days of return to Wisconsin, ~~a the person who has received a photograph exemption license under sub. (2)(a)~~ shall appear at a motor vehicle service center and obtain a license containing a photograph.

SECTION 6. Trans 102.07(2) is amended to read:

~~Trans 102.07(2) When the information systems described in sub (1) are~~

inoperative, the person's class D or M license may be processed based on the information certified by the person on the license application and any Wisconsin driver record available except that licenses may not be issued prior to a record check for the following persons:

(a) A person who is obtaining his or her first regular driver license.

(b) A person who is licensed in another state and is seeking to obtain a regular

Trans 102.11(1)(a)1. Multiply the number of days remaining on the existing license from the date of application by the statutory fee and divide by ~~1460~~ 2920. The number of days include the day of expiration, but not the day of application.

(b)2. Pay the prorated fee as determined under sub. (1) (a) and the statutory fee. The license upgraded for this fee shall expire 4 8 years from the expiration date of the existing license.

(c) When 90 days or less remain on the existing license, the license holder shall pay the prorated fee as determined under sub. (1)(a) and the statutory fee. The license upgraded for this fee shall expire 4 8 years from the expiration date of the existing license.

(2) MANUAL CALCULATION. Notwithstanding sub. (1)(a), if the automated processing system is not available, the prorated fee shall be determined by the department by multiplying the number of months remaining on the existing license from the date of application by the statutory fee and dividing by ~~48~~ 96. The number of months include the month of expiration, but not the month of application. The resulting quotient is rounded to the nearest whole dollar amount.

SECTION 9. Trans 102.14(1)(a) is repealed.

SECTION 10. Trans 102.14(1)(b) and (c) are amended to read:

Trans 102.14(1)(b) The computer system is down and a backup system ~~in the central office~~ must be used to produce the photo operator's license or photo identification card.

(c) Further verification of eligibility is necessary to comply with licensing qualifications in ch. 343, Stats., or the department determines that the person is ineligible for licensing under ch. 343, Stats.

SECTION 11. Trans 102.14(6) is created to read:

Trans 102.14(6) A license shall be reissued without fee if it is defective or inaccurate because of a department error.

SECTION 12. Trans 102.15(2)(a) and (c)(intro.) and 7. and (3)(title), (a)(intro.), 8. and 16. are amended to read:

Trans 102.15(2)(a) Satisfactory proof of date ~~and place~~ of birth, as specified under sub. (3) and satisfactory proof of identity as specified under sub. (4) shall be submitted by a person applying for an original Wisconsin operator's license or identification card.

(c)(intro.) A person shall provide proof of the person's name, and date ~~and place~~ of birth under sub. (3) and of the person's identity under sub. (4) upon the first application for an original, renewal, reinstatement or duplicate operator's license or identification card following:

(c)7. Conviction for violation of ss. 343.14(5), ~~343.16(4)~~ 343.16(7)(a) or ~~(5)~~ (b), 343.19(2), 343.43(1), 343.50(4) or (12) or 345.17, Stats.

(3)(title) PROOF OF NAME AND DATE ~~AND PLACE~~ OF BIRTH. (a) One of the following is satisfactory proof of a person's name, and date ~~and place~~ of birth:

(a)8. A federal I-94 "parole edition" or "refugees version" arrival-departure record, together with a certification, on the department's form, by the person, of the person's name, and date ~~and place~~ of birth;

16. An operator's license or identification card of another jurisdiction that is valid or expired 4 years or less, bearing an identifiable photograph and signature, or reproduction of the signature, of the person, ~~together with some other reliable evidence of the person's place of birth.~~

SECTION 13. Trans 102.15(3)(a)19. is created to read:

Trans 102.15(3)(a)19. A Mexican voter registration card bearing an identifiable photograph and signature, or reproduction of the signature of the person.

SECTION 14. Trans 102.15(3)(b)1. and 3., (c) and (c)(note) and (4)(a)1. are amended to read:

Trans 102.15(3)(b)1. A certification of the person's name, and date, ~~and place~~ of birth on the department's form;

3. Whatever documentation is available which states the person's name, and date of birth ~~and place of birth~~.

(c) The administrator may delegate to the administrator's subordinates the authority to accept or reject such extraordinary proof of name, and date ~~and place~~ of birth.

NOTE: Form MV3002 certification of name, and date ~~and place~~ of birth.

(4)(a)1. A driver education course completion certificate.

SECTION 15. Trans 102.15(4)(a)21. is created to read:

Trans 102.15(4)(a)21. Identification card issued by a foreign consulate bearing an identifiable photograph and signature, or reproduction of the signature of the person.

SECTION 16. Trans 102.15(4)(b)2., (4)(c)(note), (6)(intro.) and (b) are amended to read:

Trans 102.15(4)(b)2. A vehicle title issued 30 or more days prior to the date on which it is presented to the department as proof of identity under this section.

of the person's name, and date ~~and place~~ of birth in accordance with sub. (3)(a). For good cause shown, the department may renew the driving receipt once for an additional period of no more than 30 days. This subsection does not prohibit a person from proceeding under sub. (3)(b). This subsection applies only to persons who meet all of the following:

(b) Are unable to immediately provide proof of name, and date ~~and place~~ of birth in accordance with sub. (3)(a), but state that they will be able to do so.

SECTION 17. Trans 102.16(1)(title) is created to read:

Trans 102.16(1)(title). ORIGINAL, REINSTATED AND PROBATIONARY LICENSES.

SECTION 18. Trans 102.16(2) is amended to read:

Trans 102.16(2)(title) EYESIGHT TESTS. The eyesight test shall be given to each person who applies for renewal of a 2 ~~or~~ 4 or 8 year license at the time application is made.

SECTION 19. Trans 102.16(3) is repealed and recreated to read:

Trans 102.16(3) RENEWED REGULAR, COMMERCIAL DRIVER AND MOTORCYCLE ONLY LICENSES. Regular, commercial and motorcycle only licenses shall expire 8 years from the expiration date of the license being renewed if the license is renewed prior to its expiration, or 7 years from the person's next birthday in all other circumstances, except as otherwise provided in this section.

SECTION 20. Trans 102.16(3m) is created to read:

Trans 102.16(3m) LICENSE EXTENSIONS. A regular license issued by the department may be extended by the department for 4 years from the expiration date of the license if the department has selected the license for 4 year extension rather than renewal in order to balance the number of licenses that will expire in future years. The

department may consider a person's driving history in deciding whether to extend the person's license. Vision examinations may not be required for extensions.

NOTE: s. 343.20(1)(f), Stats., provides that this extension program sunsets on December 31, 2001.

SECTION 21. Trans 102.16(4)(title) is created to read:

Trans 102.16(4)(title) LICENSE RENEWAL.

SECTION 20. Trans 102.16(5) is amended to read:

Trans 102.16(5)(title) NEW STATE RESIDENTS. Original operator's licenses issued under s. 343.20(1)(e), Stats., shall ~~be expired~~ expire 3 years after the licensed person's next birthday.

NOTE: Section 343.20, Stats., provides for licensing of qualified drivers previously licensed in other jurisdictions.

SECTION 21. Trans 102.16(6)(title), (7)(title) and (8)(title) are created to read:

Trans 102.16(6)(title) SPECIAL RESTRICTED LICENSES.

(7)(title) ENDORSEMENTS EXPIRE WITH LICENSES.

(8)(title) EXPIRATION DATE DOES NOT CHANGE WITH CHANGES IN AUTHORITY.

SECTION 22. Trans 102.20(10)(a) and (b), (11), and (13)(a) are amended to read:

Trans 102.20(10)(a) Except when a license is due for renewal, at least once each calendar year in which an applicant seeks farm service CDL privileges, the person shall apply to the department for a farm service CDL ~~restriction card~~ replacement license designating the person's next seasonal period.

(b) The department shall confirm the driver's continued eligibility for the farm service CDL before each seasonal period and, if the driver is eligible for the license under sub. (3), shall issue a ~~restriction card~~ replacement farm service CDL to the driver. If a

replacement license is issued by mail and the driver fails to return the license document it replaces to the department, the department may cancel the replacement license.

(11) LICENSE FORM. A farm service CDL shall be subject to the restrictions set forth on ~~a restriction card~~ the license.

(13)(a) The fee for the farm service CDL shall be ~~\$32.00~~ the fee established in s. 343.21(1)(d), Stats., or the prorated amount due under s. Trans 102.10.

NOTE: The fee for a CDL under s. 343.21(1)(d), Stats., is currently \$64.

SECTION 23. Trans 102.20(13)(b) is repealed.

SECTION 24. Trans 102.20(13)(c) is amended to read:

(c) The fee for changing the seasonal period on a farm service CDL after a person has specified a seasonal period in a given calendar year shall be the fee for obtaining a duplicate license under s. 343.21(1)(L), Stats.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Signed at Madison, Wisconsin, this 31 day of August, 1999.



CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation

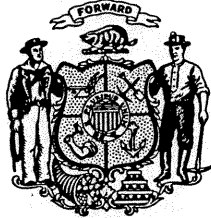
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

PART 3

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 98-168

AN ORDER to repal Trans 102.02 (6) and 102.14 (1) (a); to renumber Trans 102.02 (6m); to amend Trans 102.01 Note, 102.02 (9) (intro.), (a) and (b), 102.03 (2) and (3), 102.07 (2), 102.09 (1) and (3), 102.11 (1) (a) 1., (b) 2. and (c) and (2), 102.14 (1) (b) and (c), 102.15 (2) (a), (c) (intro.) and 7., (3) (intro), (a), 8. and 16., (b) 1. and 3. and (c) and Note, (4) (c) Note and (6) (intro.) and (b), 102.16 (2) and (5) and 102.20 (10) (a), (11) and (13) (a) and (c); and to create Trans 102.02 (7m), 102.14 (6) and 102.16 (3m), relating to operator's licenses and identification cards.

Submitted by **DEPARTMENT OF TRANSPORTATION**

10-29-98 RECEIVED BY LEGISLATIVE COUNCIL.

11-25-98 REPORT SENT TO AGENCY.

RNS:MM:kjf;jt

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES ☐ NO ☒

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES ☒ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES ☐ NO ☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES ☒ NO ☐

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES ☒ NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES ☐ NO ☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

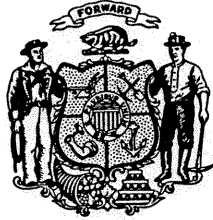
Comment Attached YES ☐ NO ☒

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 98-168

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. The analysis to the rule should explain that the rule deletes all references to the place of birth of an applicant for a driver license.
- b. In s. Trans 102.03 (2) (intro.), "any of the following" should be inserted before the colon.
- c. In s. Trans 102.03 (3), "however," should be deleted.
- d. The treatment clause for SECTION 13 should be rewritten to read:

SECTION 13. Trans 102.15 (2) (a) and (c) (intro.) and 7. and (3) (intro.), (a) (intro.), 8. and 16. and (b) 1. and 3. are amended to read:

4. Adequacy of References to Related Statutes, Rules and Forms

It appears that the statutory provision cited as authority for promulgation of the rule is incorrect. The provision cited pertains only to eligibility for commercial driver license waivers. It appears that the citation of statutory authority should include ss. 343.02 and 343.17 (6), Stats. In addition, the citation of the statutes interpreted also appears to be incorrect, since the rule does not address either eligibility for a commercial driver license waiver or the waiver of any tests for a person applying for an "F" endorsement.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Trans 102.02 (7m), should a word more precise than “picture” be used? “Picture” would include an artist’s rendering of a person as well as an actual photograph.

b. Section Trans 102.16 (3m) (a) and (b) should be consolidated to read:

Trans 102.16 (3m) An 8-year operator’s license and its endorsements shall expire 8 years from the licensed person’s next birthday if the application is made prior to the expiration date or 7 years from the licensed person’s next birthday if the application is made after the expiration date.

PART 4
CR 98-168

ANALYSIS OF FINAL DRAFT OF TRANS 102

(a) **Need for Amended Rule.** This proposed rule making proposes to make routine updates to the driver licensing provisions of the administrative code. The changes are as follows:

- Update references to licenses and restriction cards to reflect the fact that the Division of Motor Vehicles is now producing driver licenses in a new manner that contain digital images of drivers. For example, provisions related to restriction cards are repealed because the Department no longer issues restriction cards under the new system.
- Update provisions, where appropriate, to reflect the fact that this new technology will allow the Department to issue photo licenses by mail in appropriate situations, such as to annually update farm service restrictions on a license. Provides authority for the Department to cancel licenses issued by mail if the driver does not surrender his or her prior license.
- Prohibits the Department from issuing a person a first regular driver license in Wisconsin if the Department's computer database is not operational and the person's driver record cannot be checked.
- Reflects the fact that driver licenses are now issued for 8 years rather than for 4

years.

- Eliminates all references to a driver's place of birth in accordance with recent statutory amendments that removed the requirement that a driver prove his or her place of birth as a prerequisite to being licensed, bringing the rule into conformity with ss. 343.06(1)(j) and 343.19(1), Stats. as amended by 1997 Wis. Act 27, ss. 4065 and 4084.
- Modifies the lists of acceptable identification documents.

(b) **Modifications as a Result of Testimony at Public Hearing.** The public hearing was held in Madison on December 2, 1998. No one appeared or registered at the hearing. No written comments were received.

pertaining to federal commercial driver license waivers. Farm service CDL issuance is a form of waiver of general federal CDL requirements.

5. a. The Council recommendation is not adopted because the proposed provision will not be adopted. The rule already incorporates the definitions of s. 343.01 by reference, and the definition of "photograph" in s. 343.01(2)(d) is adequate.

5. b. The Council recommendation is adopted.

(e) **Final Regulatory Flexibility Analysis.** This proposed rule making will have no effect on small businesses.



DEC 03 1999

Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

December 1, 1999

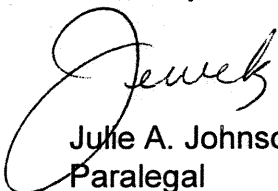
Mr. Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 West Wilson Street
Suite 800
Madison, Wisconsin 53703

RE: **STATEMENT OF SCOPE OF PROPOSED RULEMAKING, TRANS
101/102/104**

Dear Mr. Poulson:

Enclosed is the Statement of Scope for the proposed amendment of chs. Trans 101, 102 and 104. Please publish the Scope Statement in accordance with § 227.135(3), Stats., in the Administrative Register.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Richard G. Chandler/DOA State Budget Director
Senator Judy Robson, Co-Chair/JCRAR
Representative Glenn Grothman, Co-Chair/JCRAR
Alice Morehouse
Mike Goetzman
Roger Cross
John Alley

STATEMENT OF SCOPE

DESCRIPTION OF THE OBJECTIVE OF THE RULE:

The purpose of this rule making is to amend existing administrative rules in order to implement the statutory requirements of 1999 Wisconsin Act 9. These changes relate primarily to implementation of a graduated driver license system which restricts the operating privileges of drivers under 18 years of age in a variety of fashions.

DESCRIPTION OF EXISTING POLICIES RELEVANT TO THE RULE AND OF NEW POLICIES PROPOSED TO BE INCLUDED IN THE RULE AND AN ANALYSIS OF POLICY ALTERNATIVES:

1. Demerit Point System

1999 Wisconsin Act 9, section 2749gg, creates s. 343.32(2)(bc), Stats., which requires the Secretary to assess twice the demerit points to drivers who hold (or would hold if they were licensed) a probationary license. The statute prohibits doubling of points for offenses under Ch. 347, Stats., such as defective speedometer, brakes or lights. Section 343.32(2)(c)2., as created by 1999 Wis. Act 9, provides for a six month driver license suspension for any probationary driver, regardless of age, who accumulates more than 12 demerit points in a one year period. This rule making will determine:

- Whether to continue to assess points for Ch. 347 violations to any drivers;
- Whether points should be doubled based on the date of violation, date of conviction, or date a violation is processed by DMV;
- Whether to impose suspension periods for probationary drivers of more than six months if the drivers accumulate 24 or 30 demerit points, as is done with regular license holders.

If the Department continues to assess points for Ch. 347 violations, the point system will become very complicated. Under current law, 2, 3, 4 or 6 points are assigned per violation. If those points add up to more than 12 in any 1 year period, licensing action is taken. The type of action varies depending on the total number of points accumulated.

Under GDL, points for offenses would be automatically doubled for second and subsequent offenses, so that 2, 3, 4 and 6 point violations would become 4, 6, 8 and 12 point violations for persons holding probationary licenses that are issued after September 1, 2000. If Ch. 347 violations continue to be violations for which demerit points are assessed, the Department will need to devote considerable resources to sorting out Ch. 347 violations from other violations for point assessment purposes. It will also be considerably more confusing for probationary drivers to determine the demerit points that will be assessed from a violation. Similarly, courts and law enforcement would struggle with trying to determine points attributable to a violation. Finally, such a system would be impossible to use with the current automated citation

system in use by many law enforcement agencies across the state because it is impossible to determine the number of points a driver will be assessed upon conviction without first accessing the driver's driving record.

If Ch. 347 violations are not assessed demerit points, there will be an increased incentive for drivers to "plead down" offenses such as speeding to charges such as "defective speedometer" for which no demerit points are assessed.

If doubling is used for violations committed on or after a certain date, DMV will need to check the violation date for each offense committed by a probationary driver to determine whether to double the points assessed. If doubling is based on conviction date, drivers may be "penalized" by the doubling of demerit points because they exercised their constitutional right to challenge the correctness of a citation in court and delayed reporting of the conviction to DMV until after September 1, 2000. Basing point assessment on the date a violation is processed by the Department would be the most efficient means of implementing the law for the Department, but could result in different license sanctions applying to drivers based solely upon workloads in the judicial and DMV bureaucracies rather than their individual actions.

Section 2749gr of 1999 Wisconsin Act 9 creates s. 343.32(2)(c)2., Stats., which requires DOT to suspend the license of any probationary license holder who accumulates 12 demerit points in a year. Current ch. Trans 101 provides that all drivers are subject to a 2 month suspension if they accumulate 12 to 16 demerit points, a 4 month suspension if they accumulate 17 to 22 points, a 6 month suspension if they accumulate 23 to 30 points, and a 1 year suspension if they accumulate more than 30 demerit points in a year. This rule making will consider whether to impose 1 year suspensions on probationary drivers who exceed 30 demerit points in a one year period in the same manner as regular license holders.

Not imposing one year suspensions on probationary drivers who accumulate more than 30 demerit points in a year would result in probationary drivers being treated more favorably than regular drivers under the point system.

2. Effective Dates of Driver License Suspensions and Revocations.

1999 Wisconsin Act 9 repealed s. 351.025(2)(b) and amended s. 351.025(2)(a) to make all Habitual Traffic Offender revocations effective on the date the revocation order was mailed by the Department. This rule making will amend ch. Trans 103 to conform to this new statutory requirement and consider amending ch. Trans 101 to adopt a similar rule for point suspensions. Having inconsistent effective date provisions for different suspension or revocation programs promotes confusion among law enforcement, DOT processors, courts, prosecutors, the defense bar and the general public.

Section 2734qd of 1997 Wis. Act 9 creates s. 343.06(1)(cm), Stats., which requires most probationary drivers to accumulate 30 hours of behind-the-wheel training prior to licensing in this state. It requires the Department to adopt rules to waive the 30 hours

of behind-the-wheel driving experience requirement for qualified applicants who are licensed by another jurisdiction. This rule making will establish criteria under which the 30 hour requirement may be waived. Some alternatives are to decline waivers to persons based on their conviction history, on the length of time they've held a license, if they've failed to meet certain documented training requirements, or if they do not have 30 hours of actual behind-the-wheel driving experience. Each of these alternatives provides some insight as to the driver's capabilities, but each will result in a certain degree of regulatory burden.

Section 2734rh of 1999 Wisconsin Act 9 creates s. 343.085(1)(b), Stats., which prohibits DOT from issuing a license to a driver who has not held an instruction permit at least six months. It permits DOT to adopt a rule by which this requirement can be waived for a qualified applicant licensed by another jurisdiction. This rule making will establish criteria under which the 6 month instruction permit requirement can be waived. Two alternatives for these out-of-state drivers are to waive the requirement if

- Establish waiting periods between knowledge examinations for persons who repeatedly fail knowledge exams.

These changes will improve efficiency by making the "retest" period consistent with the length of time a license is valid, and by eliminating the need to conduct full CDL skills examinations of drivers who have failed limited exams designed to test particular skills that are tested in separate examinations.

The alternative to changing the "retest period" would be to leave the current 4 year period in effect. The Department's experience is that people whose driver licenses are expired by 8 years or less seldom fail skills tests, and it is therefore safe and reasonable to exclude these drivers from retest requirements. The alternative to dropping the full CDL skills test requirements of ss. Trans 104.06(5)(b) and 104.10(1)(d), would be to leave the requirement in effect. It is the Department's experience that drivers who fail the ss. Trans 104.06(5)(b) and 104.10(1)(d) special skills test routinely and easily pass the full skills test and that such testing is unnecessary.

Waiting periods between knowledge exams are being considered to discourage people from repeatedly taking knowledge exams, day after day, without apparently studying or preparing. The Department has seen an increase in such exams recently, and requiring a waiting period between tests will help contain cost and encourage study.

4. Copying of Driver Licenses

1999 Wisconsin Act 9 amended s. 343.43(1)(f), Stats., to permit the Department to establish by rule when driver licenses may be copied. This rule making will establish guidelines for when parties may copy driver licenses. This rule making will not establish guidelines for copying Wisconsin ID cards, as the statutory prohibition in s. 343.50(12)(e), Stats., was not affected by 1999 Wisconsin Act 9.

The Department proposes to permit any person, including businesses or government entities, to copy a driver license for the purpose of identifying a customer, provided the person does not develop or maintain a library or catalog of driver licenses or sell or transfer the information derived from the driver license to any third party. The Department could specify specific types of persons, businesses or government entities that could copy licenses, but such a list would require great amounts of time to maintain and update, would be of doubtful benefit, and would be nearly impossible to enforce. The courts have held that the intent of s. 343.43(1), Stats., is to prevent persons from creating fake driver licenses for the purpose of driving. Permitting any business to copy licenses while not maintaining a library of them will not undermine this legislative intent.

5. Certification of Driving Time

Section 343.06(1)(cm), Stats., as created by 1999 Wis. Act 9, calls for minor drivers to ~~accumulate more than 30 hours of behind-the-wheel driving prior to being licensed~~. It

does not specify how the Department is to determine the number of hours of behind-the-wheel training a driver has received.

The Department proposes to require by rule that an adult sponsor or parent certify that the minor driver has met this experience requirement. Exceptions allowing minors who lack adult sponsors to self-certify may be adopted.

While the statute itself does not require any certification, the Department believes certification is the only practical mechanism available to administer this statutory requirement. Some other states that have enacted graduated driver license systems that require elaborate logs of driving time be maintained by minor drivers accumulating required experience. This alternative is not being adopted in Wisconsin because it creates a regulatory burden and expense for the state to administer without any benefit.

Persons who are willing to falsely certify their compliance would be equally willing to falsely complete a log book. In addition, collecting and reviewing log books would require significant additional staff time, and no positions in the civil service to perform such work were created as part of 1999 Wis. Act 9.

6. Other Rule Amendments

Finally, the Department intends to promulgate any other rules or rule amendments made necessary by the enactment of 1999 Wis. Act 9 which become evident in the course of drafting these rules.

STATUTORY AUTHORITY FOR THE RULE:

Section 343.32(2)(bc) as created by s. 2749gg 1999 Wisconsin Act 9

Section 343.32(2)(c)2 as created by s. 2749gr of 1999 Wisconsin Act 9

Section 343.085(1)(b) as created by s. 2734rh of 1999 Wisconsin Act 9

Section 343.06(1)(cm) as created by Section 2734qd. of 1997 Wisconsin Act 9

Section 351.02(1)(f), Stats.

Section 343.02(1), Stats.

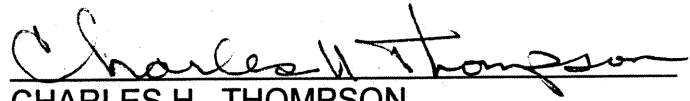
Section 85.16, Stats.

Section 9150(5g), 1999 Wis. Act 9.

ESTIMATES OF THE AMOUNT OF TIME THAT STATE EMPLOYEES WILL SPEND DEVELOPING THE RULE AND OF OTHER RESOURCES NECESSARY TO DEVELOP THE RULE:

1300 Hours

Signed at Madison, Wisconsin, this 29 day
of **November**, 1999.

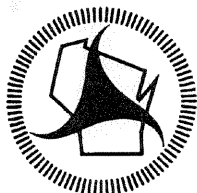
A handwritten signature in cursive script, reading "Charles H. Thompson", written over a horizontal line.

CHARLES H. THOMPSON

Secretary

Wisconsin Department of Transportation

MAR 16 2000



Wisconsin Department of Transportation

www.dot.state.wi.us

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

Office of General Counsel
4802 Sheboygan Ave., Rm. 115B
P.O. Box 7910
Madison, WI 53707-7910

Telephone: 608-266-8810
FAX: 608-267-6734
E-Mail: ogc.exec@dot.state.wi.us

The Honorable Judy Robson
Senate Chairman
Joint Committee for Review
of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

March 14, 2000

The Honorable Glenn Grothman
Assembly Chairman
Joint Committee for Review
of Administrative Rules
Room 15 North, State Capitol
Madison, Wisconsin 53702

RE: **NOTICE OF PUBLIC HEARING** and Text of Proposed Rule, relating to the **demerit point system and graduated driver license restriction extensions**, Trans 101-104

Dear Senator Robson and Representative Grothman:

Enclosed for your information is a Notice of Public Hearing and Text of Proposed Rulemaking relating to the above-entitled matter. These documents have also been filed with the Revisor of Statutes, the Legislative Council, and the Department of Administration in accordance with the requirements of §§ 227.15 and 227.17, Stats.

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Johnson".

Julie A. Johnson
Paralegal

Enclosure

cc: Alice Morehouse
Mike Goetzman
Roger D. Cross
John Alley

STATE OF WISCONSIN

DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

The Wisconsin Department of Transportation proposes an order to repeal TRANS 101.02(3)(b) and 103.05(2) and (3); renumber TRANS 103.05(4) and (5); amend TRANS 101.02(1)(g), (3)(e), (5)(intro.), (v) and (8)(a), 101.04(3)(intro.) and (5), 101.05(1), 102.20(2)(i), 103.05(1), 104.03(4), 104.06(5)(b) and (6)(a)3., 104.09(1), (2) and (5), and 104.10(title), (1)(d) and (e); repeal and recreate ch. TRANS 101(title), 101.02(1)(k) and (3)(a), and 101.04(4) and (6); and create TRANS 101.04(3m), 101.10, 102.205, 104.03(8)(b)6. to 8., 104.055 and 104.09(3m), relating to the demerit point system and graduated driver license restriction extensions.

**NOTICE OF HEARING
AND
TEXT OF PROPOSED RULE**

NOTICE IS HEREBY GIVEN that pursuant to ss. 343.32(2)(bc) as created by s. 2749gg 1999 Wis. Act 9, 343.32(2)(c)2 as created by s. 2749gr of 1999 Wis. Act 9, 343.085(1)(b) as created by s. 2734rh of 1999 Wis. Act 9, 343.06(1)(cm) as created by s. 2734qd. of 1997 Wis. Act 9, 351.02(1)(f), 343.02(1), 343.16, 343.25, 85.16, s. 9150(5g), 1999 Wis. Act 9., and interpreting those statutory provisions and s. 2734qd to 2747s, 9150(5g), 9350(4g) and 9446(3g) of 1999 Wisconsin Act 9, the Department of Transportation will hold public hearings at the following locations to consider the amendment of chs. Trans 101, 102, 103 and 104, Wisconsin Administrative Code, relating to the demerit point system and graduated driver license restriction extensions:

April 12, 2000
DC Everest High School Auditorium
6500 Alderson Street
Schofield, Wisconsin
3:15 PM

(Parking for persons with disabilities is available on south driveway near back door)

April 13, 2000
Eau Claire Memorial High School - Little Theater
225 Keith Street
Eau Claire, Wisconsin
7:00 PM

*(Parking for persons with disabilities is located by door #1;
enter from Clairemont Avenue)*

April 17, 2000
John Marshall High School - Cafeteria
4141 N. 64th Street
Milwaukee, Wisconsin
4:00 PM

*(Parking for persons with disabilities is located in the north parking lot by door #10;
enter from 64th or 66th Streets)*

An interpreter for the hearing impaired will be available on request for this hearing.
Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business on the date of the last hearing scheduled herein, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to John Alley, Department of Transportation, Bureau of Driver Services, Room 351, P. O. Box 7917, Madison, WI 53707-7917.

NOTE: This hearing is being conducted at 3 locations in order to give the public greater opportunity to present its facts, arguments and opinions. The records from all locations will be combined into a single Hearing Record on which the Department will base its decisions. Individuals need only attend one of the public hearings for their testimony to be fully considered.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 343.32(2)(bc) as created by s. 2749gg 1999 Wis. Act 9, 343.32(2)(c)2 as created by s. 2749gr of 1999 Wis. Act 9, 343.085(1)(b) as created by s. 2734rh of 1999 Wis. Act 9, 343.06(1)(cm) as created by s. 2734qd. of 1997 Wis. Act 9, 351.02(1)(f), 343.02(1), 85.16, s. 9150(5g), 1999 Wis. Act 9

STATUTES INTERPRETED: ss. 343.32(2)(bc) as created by s. 2749gg 1999 Wis. Act 9, 343.32(2)(c)2 as created by s. 2749gr of 1999 Wis. Act 9, 343.085(1)(b) as created by s. 2734rh of 1999 Wis. Act 9, 343.06(1)(cm) as created by s. 2734qd. of 1997 Wis. Act 9, 351.02(1)(f), 343.02(1), 85.16, s. 9150(5g), 1999 Wis. Act 9.

General Summary of Proposed Rule. 1999 Wisconsin Act 9, the 1999 budget bill, incorporated the provisions of 1999 AB 52 and established a Graduated Driver License ("GDL") system for Wisconsin. The general scheme of the legislation is to require drivers to practice more before obtaining their first drivers licenses, to restrict the types of driving activities they may engage in after first obtaining their licenses, and to penalize those that break traffic laws, such as speeding, more harshly than experienced drivers.

This proposed rule making administratively interprets the GDL provisions of 1999 Wis. Act 9 and provides a framework for enforcement of the driver license restrictions applied to new drivers and to implement the harsher demerit point system applied to drivers that are subject to the new law.

In addition to implementing a GDL law, 1999 Wis. Act 9 also amended existing law to provide the Department with authority to regulate the copying of driver licenses. This rule proposes to implement that legislative directive by permitting any business to copy driver licenses for legitimate business purposes, provided they do not compile a library of photographs from the copies, nor sell them.

In addition, where administrative changes in rules being amended were already contemplated by the Department, those changes are incorporated into this rule making.

Demerit Point Counting. 1999 Wis. Act 9 requires the Secretary to double demerit points assessed for second and subsequent traffic offenses to drivers who obtain probationary licenses or are eligible for probationary licensing after September 1, 2000. Under current ch. Trans 101, two extra points per offense are charged to a driver who commits such offenses. This rule making proposes to eliminate the current rule providing for only two extra points per offense and provides that all probationary drivers shall be subject to the same point doubling rules after September 1, 2000.

Under current law, a person who accumulates 12 demerit points in a one-year period is subject to a 2-month suspension. Act 9 requires that GDL holders receive 6 month license suspensions for accumulating 12 demerit points in a year. This rule making proposes to implement this requirement, but retains the Department's current rule

which calls for revoking or suspending the driver license of a driver who accumulates more than 30 points in a year.

As under current law, a driver's first traffic offense does not result in increased point assessments, but all subsequent offenses do. Unlike current law, safety equipment violations, such as speedometer violations, missing lights, or failure to buckle small children into child safety restraints cannot be enhanced. This rule making proposes to amend ch. Trans 101 to conform to these new requirements.

License Eligibility - Clean Driver Record Requirement. Act 9 requires the Department to establish a list of offenses which, if committed within 6 months of application for a GDL, makes the person ineligible for licensing. The usual impact of this provision will be to delay an instruction permit holder who is ticketed for a traffic law violation from receiving his or her GDL.

This rule proposes to make any person committing a demerit point offense ineligible for licensing, except for equipment violations resulting in assessment of 2 points or less and illegal riding. Although Act 9 prohibits the doubling of demerit points for seat belt, child restraint and defective speedometer violations, this rule proposes to make drivers who commit those specific equipment violations ineligible for licensing for 6 months.

Restriction Extensions. Act 9 provides that all new drivers' licenses shall be restricted for the first 9 months they hold their GDL. Those extensions can be extended if the drivers commit certain offenses during that first 9 month period. The Department is required to promulgate rules defining which offenses will result in extension of the restrictions.

This rule making proposes to extend GDL restrictions for drivers who commit any offense for which demerit points are assessed or any of the following:

- underage "drinking and driving" offenses
- hit and run offenses
- offenses in other jurisdictions which, if committed in Wisconsin, would result in an extension.

Extensions will not, however, be required for drivers who commit any of the following offenses:

- Any violation of ch. 347 resulting in 2 or fewer demerit points except that child safety restraint, seat belt and defective speedometer violations will be used. (These are primarily equipment violations.)
- Illegal riding.
- Operating with Multiple Licenses.
- Operating without a license. [Required by 1999 Wis. Act 9 s. 9150(5g)]
- Unlawful possession of a commercial driver license.

- Operating while suspended or revoked. [Required by 1999 Wis. Act 9 s. 9150(5g)]
- Operating while disqualified.

Most of these offenses are not "moving violations" under Wisconsin law in that neither operating a motor vehicle nor being on duty time with respect to a commercial motor vehicle is an element of the offense. s. 343.01(2)(cg), Stats. Under s. 343.085(2m)(b)1., the Department may only extend restrictions of drivers who are convicted of moving offenses. In addition, s. 9150(5g) of 1999 Wis. Act 9 prohibits the Department from proposing in this rule draft to extend restrictions based upon conviction of any of the offenses set forth in that section.

Other Administrative Changes. The Department also proposes a few administrative housekeeping changes to the chapters affected by this GDL rule making. Provisions are proposed that permit the Department to deny knowledge tests to applicants who repeatedly take and fail the tests unless they provide some evidence that they have taken a class or there is some other basis to believe they have improved the likelihood of their passing. The Department is faced with certain individuals who will take and retake these tests for months and who come no closer to passing them. This rule making is intended to reduce the administrative burden of testing, testing and retesting these individuals when diminished capacities make them unable to pass driver knowledge tests.

The Department's nearly 10 years of experience testing CDL drivers has led it to conclude that it is not necessary to completely retest most drivers who fail an airbrake restriction, school bus or abbreviated skills test. Usually, these drivers are competent, but simply forgot to check one item (a score of 100% is federally required to pass). Retesting them on just the air brake portion of the test is usually sufficient. This rule does provide, however, that an examiner may require a complete skills test if the results of a renewal test lead the examiner to question the drivers competence to operate commercial motor vehicles.

Effective Date. This rule becomes effective September 1, 2000, the effective date for the graduated driver license provisions of 1999 Wis. Act 9. These rules apply to all persons holding probationary licenses or graduated driver licenses after that date.

Fiscal Effect. Act 9, as it relates to Graduated Driver Licensing, will directly impact approximately 103,600 16 and 17 year old drivers. Cost and revenue impact are as follows:

The Department of Transportation will incur:

(1) \$383,700 in one time costs:

- \$292,700 for 476 DP development days or 2.6 programmers for 9 months to complete computer system changes.
- \$ 91,000 for public awareness, materials and training.

(2) \$41,100 **net** ongoing cost increase including an additional 1 FTE in DMV for additional customer contacts and processing.

(3) \$57,400 **net** ongoing revenue increase related to instruction permits processed.

Local Costs

(1) Courts incur an indeterminable cost increase and related revenue increase from the additional operating while suspended convictions due to an increase in demerit point suspensions.

(2) The Wisconsin Technical College System (WTCS) will incur an indeterminable cost increase and related revenue increase from additional attendees in traffic safety school due to an increase in attendance in point reduction classes.

Initial Regulatory Flexibility Analysis. This rule making will have no effect on small businesses, except that it may increase revenues to commercial driving schools to the extent that some parents may have commercial schools provide their children with the training needed to meet the 30 hour practice driving requirements for driver licensing.

Copies of Proposed Rule. Copies of this proposed rule may be obtained upon request, without cost, by writing to John Alley, Department of Transportation, Bureau of Driver Services, Room 351, P. O. Box 7920, Madison, WI 53707-7920, or by calling (608) 266-0614. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. Alternate formats of the proposed rule will be provided to individuals at their request.

TEXT OF PROPOSED RULE

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 343.32(2)(bc) as created by s. 2749gg 1999 Wis. Act 9, 343.32(2)(c)2 as created by s. 2749gr of 1999 Wis. Act 9, 343.085(1)(b) as created by s. 2734rh of 1999 Wis. Act 9, 343.06(1)(cm) as created by s. 2734qd. of 1997 Wis. Act 9, 351.02(1)(f), 343.02(1), 85.16, s. 9150(5g), 1999 Wis. Act 9, Stats., the department of transportation hereby proposes to amend a rule interpreting those provisions relating to the demerit point system and graduated driver license restriction extensions.

SECTION 1. Chapter Trans 101(title) is repealed and recreated to read:

DEMERIT POINT SYSTEM AND
GRADUATED DRIVER LICENSE RESTRICTION EXTENSIONS

SECTION 2. Trans 101.02(1)(g) is amended to read:

Trans 101.02(1)(g) Operating while under influence of intoxicant or controlled substance, or with a prohibited alcohol concentration.

SECTION 3. Trans 101.02(1)(k) and (3)(a) are repealed and recreated to read:

Trans 101.02(1)(k) Failure to stop at a railroad crossing.

(3)(a) Violation of a restriction on a graduated driver license related to the time or route of travel or passengers permitted.

SECTION 4. Trans 101.02(3)(b) is repealed.

SECTION 5. Trans 101.02(3)(e), (5)(intro.) and (v), and (8)(a) are amended to read:

Trans 101.02(3)(e) Failure to obey any official traffic control device ~~sign or signal~~.

NOTE: This includes arterial signs, one-way signs or traffic signs or signals. See s. 340.01(38), Stats.

(5)(intro.) ZERO DEMERIT POINT VIOLATIONS. The department ~~shall~~ may not assess demerit points for any of the following violations:

(v) Under age ~~19~~ 21, operating motor vehicle with any measured alcohol ~~content~~ concentration.

(8)(a) The demerit points charged against the record of any person who holds ~~a~~ an instruction permit or probationary license on the date of the conviction ~~or any, an~~ unlicensed person who would be issued a probationary license or instruction permit if proper application were made and all other requirements for license were met, shall have the demerit point value shown for the convictions set forth in subs. (1) to (4)

~~increased by 2 points~~ doubled on the second and all subsequent convictions, unless
the conviction is for a violation of ch. 347, Stats.

SECTION 6. Trans 101.04(3)(intro.) is amended to read:

Trans 101.04(3)(intro.) ~~The~~ Except as provided in sub. (3m) with respect to
probationary driver licenses, the following demerit point accumulations, calculated from
the date of violation, shall result in the following revocation or suspension periods:

SECTION 7. Trans 101.04(3m) is created to read:

Trans 101.04(3m) Notwithstanding subs. (1) and (3), the following demerit point
accumulations, calculated from the date of violation, shall result in the following
suspension or revocation periods, if the driver holds an instruction permit or a
probationary driver license, or would be issued an instruction permit or probationary
driver license upon proper application and meeting other requirements:

Demerit Points Accumulated in a 12-Month Period	Length of Revocation or Suspension
12 to 30 points	6 months
More than 30 points	1 year

NOTE: See s. 343.32(2)(a) and (c), Stats.

SECTION 8. Trans 101.04(4) is repealed and recreated to read:

Trans 101.04(4) The effective date of departmental revocations or suspensions
under this chapter shall be effective as of the date of the suspension or revocation
order, except that revocations for convictions in another jurisdiction for an offense
therein which, if committed in this state, would have required revocation of the person's
operating privilege under s. 343.32(1), Stats., shall be effective from the date of the
conviction.

SECTION 9. Trans 101.04(5) is amended to read:

Trans 101.04(5) ~~Revocations~~ Suspensions under the provisions of s. 343.32(1)(b) or (c), Stats., shall be effective for 6 months. ~~If a person was convicted of a traffic violation that was a cause of an accident that resulted in the death of another, there shall be a revocation for a period of 6 months under the provisions of s. 343.32(1)(a) 1993 Stats.~~

SECTION 10. Trans 101.04(6) is repealed and recreated to read:

Trans 101.04(6) If a court orders suspension of a person's operating privilege under s. 343.30(1), Stats., and the person is also subject to a demerit point suspension or revocation under s. 343.32, Stats., and this chapter, as a result of the same violation, the longer suspension or revocation period shall apply.

SECTION 11. Trans 101.05(1) is amended to read:

Trans 101.05(1) The department, upon issuing a reinstated operator's license or upon return of a license which has been suspended, shall reduce the accumulated point value to 6 points. If at the time of reinstatement or suspension termination, the demerit point value in the immediately preceding 12 month period is less than 6, the lesser point value shall be carried forward in the record. Revocations and suspensions under chs. 48, 344, 345, 767, 800, 938 and 961, Stats., and ss. 343.30(lq)(d), 343.30(6), 343.305(10), 343.32(1m)(b) and 343.345, Stats., ~~shall~~ may not qualify for point reduction under this section.

SECTION 12. Trans 101.10 is created to read:

Trans 101.10 Graduated driver license eligibility and restriction extensions. (1) The department may not issue a license to a person under s. 343.085(1)(b), Stats., if the person has committed any offense for which demerit points are assessed

under this chapter, or any offense under the law of another jurisdiction for which demerit points would be assessed if the offense were committed in this state, within the preceding 6 months, except:

(a) Any violation of ch. 347, Stats., resulting in the assignment of 2 or fewer demerit points under this chapter, or a similar violation under law of another jurisdiction, except child safety restraint, seat belt and defective speedometer violations.

(b) Illegal riding.

(2)(a) Except as provided in par. (b), the department shall extend graduated driver license restrictions required under s. 343.085(2m)(a), Stats., if the person has committed any offense for which demerit points are assessed under this chapter or any of the following offenses:

1. Operation of a motor vehicle by a person who has not attained the legal drinking age while having an alcohol concentration greater than 0.0 and less than 0.1.

2. Refusal of chemical testing under the implied consent law.

3. Operating of a commercial motor vehicle with an alcohol concentration greater than 0.04 and less than 0.10.

4. Operation of a commercial motor vehicle with an alcohol concentration above 0.0, within 4 hours of having consumed or having been under the influence of an intoxicating beverage, or while possessing an alcoholic beverage.

5. Failure to notify the owner of any property on or adjacent to a highway that is damaged in an accident.

6. Any offense committed in another jurisdiction for which demerit points would be assessed if the offense were committed in this state.

(b) Notwithstanding par. (a), the department may not extend the graduated driver license restrictions required under s. 343.085(2m)(a), Stats., solely for committing of any of the following offenses:

1. Any violation of ch. 347, Stats., resulting in the assignment of 2 or fewer demerit points under this chapter except child safety restraint, seat belt and defective speedometer violations, or a similar violation under the law of another jurisdiction.
2. Illegal riding.
3. Operating with multiple licenses.
4. Operating without a license or without an endorsement necessary for the vehicle class being operated.
5. Unlawful commercial driver license.
6. Operating while suspended or revoked.
7. Operating while disqualified.

(c) Only one extension of graduated driver license restrictions may result from any one incident or occurrence.

SECTION 13. Trans 102.20(2)(i) is amended to read:

Trans 102.20(2)(i) "Livestock feeder" means a business that is licensed as ~~an approved veal lot under s. ATCP 11.13 or~~ an approved feed lot under s. ATCP 11.14.

SECTION 14. Trans 102.205 is created to read:

Trans 102.205 Copying of driver licenses. Any person, including the state or federal government, or an agency or political subdivision thereof, may make a copy of a driver license provided the copy is intended to be used for the identification of the person to whom the license has been issued and the person does not sell or transfer

the copies to any third person or include the copy of the driver license photo in any electronic or paper library of images. This provision may not prohibit a lender or business from requesting and making a copy of a driver license as part of an application for credit or other business services and forwarding that copy with the application materials in the ordinary course of business when the commercial paper or business is sold or transferred.

NOTE: Amendments to s. 343.43(1)(f) enacted as part of 1999 Wisconsin Act 9 provide the Department with authority to adopt this rule with respect to driver licenses. No similar authority exists with regard to the general prohibition against copying identification cards found in s. 343.50(12)(e), Stats. See State v. Schwolin, 57 Wis. 2d 764 (1973), for general guidance on the copying of identification cards.

SECTION 15. Trans 103.05(1) is amended to read:

Trans 103.05(1) Except as provided in subs. (2) ~~to (5)~~ and (3), the effective date shall be the date the HTO or repeat HTO order is mailed.

SECTION 16. Trans 103.05(2) and (3) are repealed.

SECTION 17. Trans 103.05(4) and (5) are renumbered (2) and (3).

SECTION 18. Trans 104.03(4) is amended to read:

Trans 104.03(4) **FAILED TESTS.** A person who fails a knowledge or pre-trip inspection test may not retake the test sooner than the next day following the failed test. A person who fails a knowledge or pre-trip inspection test more than 5 times within one year may be authorized a sixth attempt only after requesting and receiving permission from the department to do so. Permission to take more than 5 tests in a one year period may be granted if the person demonstrates that he or she has received additional instruction, or some other significant circumstance has changed since the last failed exam, which makes successful completion of the exam more likely.

SECTION 19. Trans 104.03(8)(b)6., 7. and 8. are created to read:

Trans 104.03(8)(b)6. Locate and verbally identify the air-brake operating controls and monitoring devices.

7. Ascertain whether the emergency braking system will activate properly.

8. Ascertain, with a fully charged air system and the engine off, the rate at which air is lost from the system.

SECTION 20. Trans 104.055 is created to read:

Trans 104.055 Graduated driver license requirements and waivers.

(1) GRADUATED DRIVER LICENSE REQUIREMENTS. Except as provided in sub.

(2), the department may not issue a probationary driver license to any person less than 18 years of age unless the person has met all of the following requirements:

(a) The person has accumulated at least 30 hours of behind-the-wheel driving experience, at least 10 of which were during hours of darkness. Up to 5 hours of behind-the-wheel driving experience performed with a qualified instructor may be counted at the rate of 2 hours for each hour of actual driving. The department shall require an applicant's adult sponsor under s. Trans 102.21 to certify that the applicant has met this requirement as a condition of issuing a probationary driver license, except that persons who are permitted to file proof of financial responsibility in lieu of sponsorship under s. 343.15(4), Stats., may provide that certification.

(b) The person has not received a citation for an offense described in s. Trans 101.10(1).

(2) WAIVERS FOR DRIVERS PREVIOUSLY LICENSED IN OTHER JURISDICTIONS. (a) *License holders from other jurisdictions.* The department may issue a probationary driver license to a person less than 18 years of age without regard

to the length of time the person held any instruction permit and without requiring the certification described in sub. (1) if the person has been issued a driver license, other than an instruction permit, by another jurisdiction prior to the person establishing Wisconsin residency and certifies that the person has not been convicted of a violation of law which prohibits issuance of a probationary driver license to a person under 18 years of age within the preceding 6 months, as provided for in s. Trans 101.10(1). The department shall cancel the license of any person who provides a false certification under this subsection.

(b) *Instruction permit holders from other jurisdictions.* The 6 month period during which a driver less than 18 years of age must hold a Wisconsin instruction permit prior to receiving a driver license in Wisconsin under s. 343.085(1)(b), Stats., shall be reduced by any amount of time a driver can show he or she was a resident of another jurisdiction and held an instruction permit issued by that jurisdiction.

SECTION 21. Trans 104.06(5)(b) and (6)(a)3. are amended to read:

(5)(b) *Abbreviated skills test.* A person holding a commercial driver license with proper classes who applies only to remove an air-brake restriction may be administered an abbreviated skills test in an air-brake equipped vehicle. ~~A person who fails an abbreviated test once shall be required to pass a full skills test in an air-brake equipped vehicle to have the air brake restriction removed from the person's license.~~ The department may require a driver to retake a complete CDL skills test if the results of an abbreviated skills test lead the examiner to question whether the driver is competent to safely operate a commercial motor vehicle in compliance with the laws of this state.

(6)(a)3. ~~Will~~ Roadside stop and start.

SECTION 22. Trans 104.09(1) and (2) are amended to read:

Trans 104.09(1) ~~A Except as provided in subs. (2) to (5), a person who fails a skills test or special examination solely as a result of committing a moving traffic violation~~ shall wait a minimum of one day before retaking the test.

(2) A person who fails a skills test or special examination by 10 points or less, or who fails a skills test because of dangerous driving behavior described in s. Trans 104.06(13)(a), (b) or (d), shall wait a minimum of one week before retaking the test.

SECTION 23. Trans 104.09(3m) is created to read:

Trans 104.09(3m) A person who fails a CDL skills test solely because of being unable to demonstrate his or her ability to successfully complete the straight-line and curved-path backing tests shall wait a minimum of one week before retaking the test.

SECTION 24. Trans 104.09(5) is amended to read:

Trans 104.09(5) A person who fails 5 skills tests or special examinations within one year may be authorized a sixth attempt only after requesting and receiving permission from the department to do so. Permission to take more than 5 tests or exams in a one year period may be granted if the person demonstrates that he or she has received additional instruction, or some other significant circumstance has changed since the last failed test or exam, which makes successful completion of the test or exam more likely.

SECTION 25. Trans 104.10(title), (1)(d) and (e) are amended to read:

Trans 104.10 (title) ~~Renewal testing~~ Retesting intervals for certain endorsements.


(1)(d) If a person with a school bus endorsement fails the abbreviated ~~renewal~~ skills test, ~~a complete driving school bus skills test shall be required~~ the person's school bus endorsement may not be renewed until the person retakes and passes the abbreviated skills test. ~~This test may be taken no sooner than the day following the a failed test.~~ The department may require a driver to retake a complete driving school bus test if the results of an abbreviated skills test lead the examiner to question whether the driver has the ability to exercise ordinary and reasonable control in the operation of a school bus in compliance with the laws of this state.

(e) A person who holds a license with a school bus endorsement that is restricted from operation of air-brake equipped vehicles may not take a school bus endorsement ~~renewal examination~~ abbreviated skills test in an air-brake equipped vehicle unless the person first completes all knowledge and skills examinations required to remove an air-brake restriction under ss. Trans 104.03(2)(f) and (8) and 104.06(5)(b). The air-brake pre-inspection test and abbreviated air-brake skills test may be conducted as part of a school bus ~~renewal examination~~ abbreviated skills test.

(END OF RULE TEXT)

Effective Date. This rule shall take effect on September 1, 2000.

Signed at Madison, Wisconsin, this 14 day of March, 2000.


CHARLES H. THOMPSON
Secretary
Wisconsin Department of Transportation